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HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1172nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 29 July 1992, at 10 a.m.

Chairman: Mr. POCAR

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Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

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GE.92-16753 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Comments of the Human Rights Committee on the third periodic report of Belarus (M/CCPR/92/35 in the French version, no symbol in the English version)

1. The CHAIRMAN invited the members of the Committee to consider the draft comments on the third periodic report of Belarus (CCPR/C/52/Add.8) prepared by Mr. Dimitrijevic, which had been circulated by the Secretariat (M/CCPR/92/35 in the French version, no symbol in the English version). He suggested that the Committee should proceed paragraph by paragraph.

Paragraph 1

2. Paragraph 1 was adopted.

Paragraph 2

3. Mr. WENNERGREN referred to the expression "away from authoritarian rule" at the end of the second sentence; he would prefer a formula reflecting the positive aspect of the situation, i.e. the transition towards a state of democracy.

4. Mrs. HIGGINS proposed using the expression "transition towards democratic rule".

5. Mr. SADI said it should be made clear that what was at issue was a multi-party democracy, to distinguish it from other types of democracy.

6. Miss CHANET requested that the word "sincèrement", in the first line of the French version, should be deleted.

7. Paragraph 2, as amended, was adopted.

Paragraph 3

8. Mrs. HIGGINS said that the wording of the second sentence gave the impression that the Committee was coming out in favour of a gradual introduction of reforms, whereas it should remain neutral, since the countries of Eastern Europe were making different choices in that area. She therefore proposed saying that it was "particularly noteworthy that reforms are being handled in a manner that allows a propitious social and political environment ...".

9. Mr. SADI endorsed Mrs. Higgins' amendment. In the first sentence, instead of speaking of "undoubted progress", it would be more accurate to refer to "definite progress".

10. The CHAIRMAN invited the Committee to adopt paragraph 3 as amended by Mrs. Higgins and Mr. Sadi.

11. Paragraph 3, as amended, was adopted.

Paragraph 4

12. Mr. SADI referring to the first sentence, said he was surprised to see the Law on Citizenship singled out rather than other laws, and would like to know what was meant by the reference in the English version to the "progressive character" of the laws enacted and the application of existing standards (French version: "marquent un net progrès").

13. Mr. EL SHAFEI said he was not very clear how paragraph 4, in which the Committee expressed satisfaction, could be reconciled with paragraph 6, where it set forth subjects of concern regarding the same areas of legislation. He would like to know what was meant by the "application of existing standards".

14. Mrs. HIGGINS stated that the Law on Citizenship had been explicitly mentioned because that legislation was very different from the legislation of other republics of the former USSR, especially that of the Baltic States. Regarding Mr. El Shafei's remark, she had no objection to seeking a better wording than "existing standards", and to meet Mr. Sadi's concern, she proposed replacing the word "progressive" by "liberal". Finally, she felt that the first sentence should be divided in two.

15. The first sentence would read: "The Committee also notes with satisfaction that recently enacted laws, notably the Law on Citizenship, are of a liberal character, demonstrating the Government's intention to restructure society in accordance with basic democratic principles". A second sentence would then read: "Existing laws, in relation to national minorities for example, also are generally being applied in a manner compatible with the Covenant." The word "generally" left the Committee the possibility of making criticisms later on.

16. Mr. LALLAH inquired about the meaning of the term "established democracies", used in the last sentence of paragraph 4. Did that simply mean other democracies? He also proposed amending the end of the sentence to speak of "the protection and promotion" of human rights.

17. Mr. HERNDL proposed that in the French verson, "les démocraties établies" should be replaced by "des démocraties établies".

18. The CHAIRMAN invited the Committee to adopt paragraph 4 as amended.

19. Paragraph 4, as amended, was adopted.

Paragraph 5

20. Miss. CHANET said that, in her view, it was going rather too far to speak in the first sentence of introducing the rule of law; it would be sufficient to use the formula "transition towards democratic rule" that had been adopted for paragraph 2.

21. Mr. SADI said it should be made clear that the reference in the paragraph at hand to the heritage of the past was to the Communist era and not to the country's entire history. In the same sentence, it was not very diplomatic to say that that heritage could not be "disposed of", when what was actually meant was that it should be "rectified". Finally, in the second sentence, the

Committee appeared in a way to be condoning failure to perform obligations under the Covenant when it spoke of "immense problems" (that "make the task of implementing civil and political rights particularly difficult" in Belarus).

22. Mr. PRADO VALLEJO, referring to the first sentence of the paragraph and to Mr. Sadi's remarks, recalled that the State party itself had said that it was difficult to undo the heritage of the past. It would therefore be preferable to say that the Committee took note of the State party's observation that it was difficult to undo the heritage of the past.

23. Mrs. HIGGINS endorsed Mr. Sadi's remark concerning the expression "disposed of". She also proposed that the paragraph should speak of the heritage of the "negative aspects" of the past.

24. Miss. CHANET noted that paragraph 5 appeared under heading C, "Factors and difficulties impeding the implementation of the Covenant", under which the State itself was supposed to point out the factors and difficulties with which it had to contend. The Committee could accept the State party's arguments, but it could not endorse them so clearly. The tone of the paragraph should be changed and a more subtle expression found that would refer to the State party's own evaluation of its difficulties and to the fact that the Committee took those limitations into account.

25. Mr. EL SHAFEI referred to the last sentence of the paragraph, which stated that "... the Government's efforts in restructuring the existing legal system have at times been hampered by certain lacunae in national legislation as well as by continuing resort to legislation of the former USSR". He wondered whether that sentence would not more appropriately be placed under the section on subjects of concern. It was a State party's duty to attempt to adapt its legislation to the stipulations of the Covenant and, in the framework of that restructuring, to fill any gaps. The fact that Belarus was continuing to use the legislation of the former USSR was a subject of concern, rather than a factor or difficulty objectively impeding the implementation of the Covenant.

26. Mr. MÜLLERSON stated that the Committee was concerned because factors existed that impeded the implementation of the Covenant. Mr. Dimitrijevic had been right to emphasize a few of those factors. There was first of all the country's communist past and, secondly, the transition it was currently undergoing, which was a difficult phase because the new structures were not yet in place. The problem arose not from lacunae in legislation, but from the fact that the entire system was disorganized. That was a real and objective situation which it would take a long time to overcome, and the factors referred to in paragraph 5 were a subject of concern both to the country and to the Committee.

27. Mr. LALLAH agreed with Mr. Müllerson that Mr. Dimitrijevic had wished in paragraph 5 to emphasize an essential problem, that of the legal structures needed to implement human rights. He also shared the views of Mr. Sadi and Miss. Chanet. For his part, he would suggest leaving paragraph 5 in the same place and amending it to read: "The Committee notes that the heritage of the negative aspects of the past cannot be rectified overnight and that much remains

to be done to make irreversible the process of introducing multiparty democracy and strengthening the rule of law. Belarus thus faces factors and difficulties during the present period of transition in the implementation of civil and political rights. In this connection, it also notes that [...] as well as by continuing resort to legislation of the former regime."

28. Mr. PRADO VALLEJO observed that when the State party's previous reports had been considered, the members of the Committee had expressed their concern regarding the problems involved in exercising human rights in the country. In particular, the members of the Committee had said that the State party had not implemented article 2 of the Covenant, in that it had not brought its legislation into line with the provisions of that article. However, the tone of the existing paragraph was radically different: the Committee said that it recognized the various problems the country was facing. But those problems were not new. Thus the text of the paragraph should be reformulated and drafted in a different spirit.

29. The CHAIRMAN remarked that he was not certain that what was stated in paragraph 5 of the text was so very different from what the members of the Committee had said in the past.

30. Mr. MÜLLERSON endorsed Mr. Lallah's proposal to replace "the former USSR" by "the former regime", for the latter formula covered both the legislation of the former USSR that was still being applied in certain cases and the laws that Belarus itself had adopted.

31. The CHAIRMAN invited the members of the Committee to adopt the text of paragraph 5, as amended by Mr. Lallah.

32. Paragraph 5, as amended, was adopted.

Paragraph 6

33. Mrs. HIGGINGS proposed two amendments to paragraph 6. First, the Committee would recall that the Belarusian delegation had indicated that exit visas were no longer required. Thus the second sentence, which made reference to exit visas, should be amended to read: "Problems in this regard relate in particular to the grounds on which passports may be issued, in particular the prohibition for holders of State secrets - a ground which is incompatible with article 12 (3) of the Covenant. The Committee is also concerned at the planned retention ...".

34. She would also like to see a reference to a question she had raised, to which the Belarusian delegation had not replied; the following sentence should be added before the last sentence: "The retention of the classification of persons of the Jewish religion in Belarus as a distinct nationality is also without justification."

35. Mr. SADI said he was not very clear what was meant in the last sentence of the draft by the statement that "... much depends on the goodwill of the authorities". In the same sentence, another way should be found of describing "inherited conservative attitudes", for conservatism was not necessarily negative. It would be better to speak of attitudes "contrary to the Covenant".

36. Mr. MÜLLERSON agreed that the adjective "conservative" should be deleted.

37. In the first sentence of the English text, it might be preferable to speak of "draft legislation".

38. Mr. PRADO VALLEJO noted that what had concerned the Committee in connection with the death penalty was not only the excessive number of offences carrying it, but also the fact that those offences were not among the most serious ones, contrary to the rule set forth in article 6 (2) of the Covenant. Thus it should be indicated in paragraph 6 that the offences carrying the death penalty in Belarus were not within the strict framework of article 6.

39. The entire last sentence of the paragraph was drafted too vaguely; it referred to the "goodwill of the authorities", "danger" and the influence of "conservative attitudes", all of which were elements that should be made clearer, for they lent themselves to various interpretations that might even be contradictory. He agreed that the adjective "conservative", in particular, was inappropriate.

40. Miss CHANET endorsed the first amendment proposed by Mrs. Higgins, provided that the mention of exit visas was not deleted. It was true that the delegation had stated that the official system was no longer being applied, but the members of the Committee had none the less expressed their concern, and a number of them, including herself, had agreed that the legislation should be amended to eliminate the visa system and the system of invitations needed to leave the country. That was an extremely delicate issue which it was essential to mention in paragraph 6.

41. Regarding Mrs. Higgins' second amendment, that speaker had been the only member to raise the question of the Jewish community during the consideration of the State party's reports. There were 77 national groups in Belarus, all of which had problems linked to their minority status, and the Committee could not single out one community. The comments adopted should reflect the Committee's subjects of concern as a whole.

42. Mr. EL SHAFEI said that, before taking up a position on Mrs. Higgins' second amendment, he would like some clarifications on the actual situation regarding ethnic communities in Belarus. The expression "the retention of the classification" proposed by Mrs. Higgins gave the impression that under the previous regime, minorities had been treated as foreigners under the Law on Citizenship. Mrs. Higgins' amendment also implied that the classification had not been based only on nationality, but also on religion. It would therefore be useful to know exactly what the situation of ethnic minorities in Belarus had been before deciding whether the amendment proposed by Mrs. Higgins should be incorporated into the text.

43. Mr. MÜLLERSON replied that, under the previous regime, there had been a Soviet citizenship and a citizenship for each Republic, which in practice had been meaningless. But there had also been two concepts involved: citizenship and nationality, and every passport had contained a reference to "Soviet citizen", with, for example, "Ukrainian nationality" as well. The situation in the Republics had changed and ethnic origin no longer had official status, or in any case, was not indicated in passports. Each Republic had laws governing ethnic and religious communities. It was true that in Belarus, but also throughout the former USSR, the Jewish minority had been considered as an ethnic minority and officially treated as such. He disapproved of that situation and therefore endorsed Mrs. Higgins' amendment.

44. Mrs. HIGGINS noted that the situation in the past had been as Mr. Müllerson had described it, but that during the consideration of the report the Belarusian delegation had indicated that the legislation on nationality had now been simplified and that there would be four nationalities, one of them Jewish. However, that was a religion and not a nationality. If she was the only member of the Committee who felt that it was inappropriate to treat a particular religion as though it were a nationality, the summary record would so indicate, and she would not insist on her amendment being adopted.

45. Mr. LALLAH said he understood why Mrs. Higgins wished to add that element to paragraph 6, and he believed that there was a way of giving the amendment a broader scope without eliminating its purpose. It would be sufficient to say: "The retention of the classification of persons of a particular religion as a distinct nationality is also without justification."

46. Mr. EL SHAFEI endorsed that amendment, and wondered whether all possibilities could not be covered by speaking, for example, of the retention of the classification based on ethnic, religious or other grounds.

47. Mr. AGUILAR URBINA endorsed Mr. El Shafei's amendment, for he was firmly opposed to the idea of treating members of a religious denomination as though they were members of a national group.

48. Mr. SADI supported Mr. Lallah's proposal but felt that the expansion of the amendment that Mr. El Shafei had proposed made it possible to anticipate situations that might emerge in the future.

49. Mr. MÜLLERSON noted that his previous explanations had addressed the situation regarding citizenship and nationality in the former USSR. The current situation in Belarus was different, and the concept of nationality based on religion did not exist. In the context of the comments on the third periodic report of Belarus, Mrs. Higgins' proposal was justified, since the Committee had pointed out that there were various criteria for classification of minorities in the report: there were national minorities and religious communities. The Belarusian delegation had perpetuated that confusion in its oral replies, which was why Mrs. Higgins had proposed the present addition, bearing in mind the Belarus report and not the situation in the former USSR.

50. At the request of the CHAIRMAN, Mr. LALLAH read out his subamendment once more.

51. Mr. PRADO VALLEJO and Mr. ANDO endorsed Mr. Lallah's proposal.

52. Mr. EL SHAFEI said that he would have liked the formula to be a more general one, but that if there was a consensus in favour of Mr. Lallah's proposal, he would go along with it.

53. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt Mrs. Higgins' proposal, as amended by Mr. Lallah.

54. It was so decided.

55. Miss CHANET, returning to the question of exit visas, proposed a text that would make it possible to retain the reference to exit visas in the framework of Mrs. Higgins' amendment. The text would read: "Problems in this regard relate in particular to the provisions on exit visas and to the reasons for which passports may be issued, in particular the prohibition for holders of State secrets - a ground which is incompatible with article 12 (3) of the Covenant."

56. The proposal was adopted.

57. The CHAIRMAN noted that the question of the last sentence remained to be settled. He suggested purely and simply deleting the adjective "conservative" in the phrase "by inherited conservative attitudes".

58. Mr. SADI pointed out that the past had not been all bad and proposed the following formula: "inherited attitudes contrary to the spirit of the Covenant".

59. Mr. HERNDL said he preferred the Chairman's suggestion; it would be sufficient to restrict it slightly by adding the adjective "certain" ("certain inherited attitudes").

60. The proposal was adopted.

61. Paragraph 6, as orally amended, was adopted.

Paragraph 7

62. Mr. MÜLLERSON criticized the wording of the end of the second sentence, in particular the use of the term "self-executing". Everything depended upon the nature of the provision, and certain provisions of international treaties could not be made self-executing. Thus the end of the sentence should be replaced by "and to making such treaty provisions directly applicable", which had probably been the intended meaning of that phrase.

63. Mr. PRADO VALLEJO agreed with Mr. Müllerson's interpretation. He noted that a large number of legislative systems did not provide for the automatic application of the provisions of international treaties, and that laws were necessary to incorporate them into domestic legislation. In that sense, therefore, Mr. Müllerson's suggestion was very important. Finally, he noted that, in the Spanish version, the word "actos" should be replaced by "leyes".

64. Mr. ANDO said he also wished to stress the importance of Mr. Müllerson's remark. The situation in that respect did indeed vary from one legislative system to another. In his view the second clause of the second sentence could be deleted, especially as the following sentence appeared to meet Mr. Müllerson's concern.

65. Mr. SADI said the last sentence raised some questions in his mind. While the paragraph consisted mostly of general considerations, the last sentence made explicit reference to certain specific subjects of concern. If details were to be given, however, mention should also be made of many other subjects raised during the consideration of the third periodic report of Belarus (CCPR/C/52/Add.8). Another possibility was to keep to a very general formulation.

66. Mr. HERNDL suggested that the term "domestic law" should be used rather than "other acts of national legislation" (second sentence). Like Mr. Ando, he would prefer to see the end of the sentence deleted, especially as the self-executing nature of treaties was a quality inherent in certain instruments, and therefore, a State party could not be urged to make the provisions of international treaties self-executing.

67. Mr. LALLAH endorsed Mr. Herndl's views. In the second sentence, it would be better to speak of international standards enshrined in the Covenant rather than generally recognized principles of international law and ratified international treaties. Finally, in the third sentence, he would prefer to say "in drafting any new legislation affecting human rights", and to replace the word "realization" by "safeguard". Any new legislation, whatever it might be, could affect human rights. It was also important to keep the following (fourth) sentence, for it gave more specific indications.

68. Mr. MÜLLERSON said he had no objection to Mr. Herndl's suggestion, and explained that the current formulation of the second sentence was based on the discussion that had taken place during the consideration of the third periodic report of Belarus (CCPR/C/52/Add.8). It referred to the portion of the discussion that had concerned the proposed new Constitution, during which Mr. Müllerson had pointed out that the provisions of international treaties were not directly applicable as such despite the fact that the Constitution contained an article to that effect.

69. The CHAIRMAN suggested that the last sentence should be expanded to read: "Existing provisions limiting or restricting freedom of movement, in particular the requirement for exit visas and the clause relating to holders of State secrets, should be eliminated from pending legislation to bring it fully into conformity with article 12, paragraph 3 of the Covenant".

70. Mrs. HIGGINS said she believed Mr. Sadi had made an important remark; the last sentence should be even more general than the one suggested by the Chairman. She proposed that it should read: "Attention should be paid in all legislation that any limitations on human rights are in strict conformity with the limitations to those rights permitted in the Covenant."

71. She found the second sentence to present a problem regarding the question of the primacy of international law over domestic law. A large number of States would be unable to accept the point of view expressed in that sentence, and the position it expressed was legally unrealistic. In her opinion, it should simply say that care should be taken to ensure that the standards of international human rights treaties were made effective within the national legal system.

72. Mr. EL SHAFEI endorsed Mr. Sadi's views and supported Mrs. Higgins' suggestion, which he found very much to the point.

73. Mr. SADI said that in the second sentence, mention should be made only of the provisions of the Covenant, and not of other international treaties. Subject to that change, he endorsed Mrs. Higgins' suggestion.

74. Mr. PRADO VALLEJO said he had no objection to Mrs. Higgins' suggestion. Concerning the third sentence, the Spanish text spoke of "garantías oficiales eficaces" for the realization of civil and political rights. Since legal guarantees were involved, the Spanish version should be changed to read: "garantías legales eficaces".

75. Mr. HERNDL said that he thought the paragraph dealing with suggestions and recommendations should not be too general. If the Committee were to agree to all the changes that had been proposed so far, the only specific suggestion that would be made to the State party in question would relate to the effective judicial guarantees for the realization of civil and political rights. All the rest would merely be a repetition of what was said in the first sentence. In the last sentence, therefore, he would like to see a reference to freedom of movement, since that had been a subject of particular concern to the Committee.

76. The CHAIRMAN agreed with Mr. Herndl that it was important to mention a specific area and not to allow the text to be too general. He noted that that was how the Committee had proceeded in the case of the comments it had adopted at its previous session, in New York.

77. Mrs. HIGGINS said she had a general remark to make. In the first paragraph of every text containing comments by the Committee on a State party report, she would like it to be said that such comments should be read in conjunction with those made by the members of the Committee at particular meetings. The text of

the Committee's comments was a kind of summary of the discussion, and did not, for example, contain all the subjects of concern raised by the members of the Committee. It was also important for the State party to take into account the comments and remarks made during meetings, and in that respect the summary records were a useful supplement to the Committee's comments.

78. Mr. ANDO said he believed that Mrs. Higgins had raised an important issue that he himself had wondered about in his capacity as Chairman/Rapporteur of the Working Group under Article 40. He suggested that the Committee should return to that question in connection with its consideration of ways of presenting the annual report.

79. Mr. SADI, referring to the last sentence of paragraph 7, said that he saw no need to go into detail at the stage of suggestions and recommendations to the State party. However, if the Committee wished to be more precise, it could not refer to freedom of movement alone, and it would have to mention many other subjects of concern, such as the retention of the death penalty and the classification of people by religion. That having been said, the specific areas of concern to the Committee had been mentioned in the preceding paragraphs, and there was all the less justification for mentioning them again in paragraph 7. On another matter, he was in agreement with the last sentence as proposed by Mrs. Higgins.

80. Mr. ANDO noted that, in the case of other draft comments before the Committee at the current session, the section relating to suggestions and recommendations did mention specific subjects of concern. Moreover, that had also been the case for the comments adopted at the previous session of the Committee. That procedure was a natural one, and if the members contented themselves with general considerations, they might miss the point of the new exercise.

81. In his opinion the second sentence could be deleted entirely. The suggestions by the Chairman and Mrs. Higgins concerning the last sentence could be retained and developed to make mention of the Committee's various fields of concern. Unlike Mr. Sadi, he himself believed that the Committee had not been very precise in that respect in the previous paragraphs.

82. Mr. PRADO VALLEJO said that he found Mr. Sadi's concern to be justified. He suggested saying that the State party should take appropriate measures to eliminate the other subjects of concern mentioned by the Committee.

83. Mr. EL SHAFEI stated that the last sentence proposed by Mrs. Higgins fitted in very well with the structure of the paragraph and also avoided the need for the Committee to list the various subjects of concern.

84. Mr. WENNERGREN said that paragraph 7 merely repeated what was already said under the provisions of article 2 of the Covenant. In his view, it did not provide anything new.

85. The CHAIRMAN shared Mr. Wennergren's view. He found paragraph 7 in its entirety to be unnecessary, but he would associate himself with any decision the Committee made.

86. Mr. HERNDL said he still thought that the Committee could make the end of the paragraph more specific and not be satisfied with generalities.

87. Mr. ANDO suggested that the first sentence should be kept as it was, the second deleted, the third reformulated according to the wording proposed by Mr. Lallah, and Mrs. Higgins' proposal for the last sentence adopted. A new sentence might be added at the end of the paragraph relating to the three subjects of concern mentioned in paragraph 6, to the effect that legislation in that respect should be amended to bring it into conformity with the provisions of the Covenant. If nothing were added, it would indeed be a mere repetition of material contained in article 2 of the Covenant, and that would be no help to the State party concerned.

88. Mr. AGUILAR URBINA said that in his understanding the Committee was moving towards a sort of consensus by default regarding the last sentence. In his view it was important to mention the specific subjects of concern, for the recommendations addressed to the State party should not be mere generalities. Thus the specific examples in paragraph 6 should be mentioned again.

89. Mr. SADI said that two positions appeared to be emerging within the Committee. On the one hand, members were mindful of the fact that Belarus was a rather exceptional case and that it was a country that was being totally transformed and whose entire legislation was being revised; from that point of view, therefore, the paragraph devoted to suggestions and recommendations could remain general in the case of Belarus. On the other hand, some members of the Committee would like to emphasize the various subjects of concern, and he understood why those members found it important to mention the contents of paragraph 6. Personally, he had no strong preference for either position.

90. Mr. ANDO proposed formulating the last sentence of paragraph 7 in the following way: "In particular, the Committee recommends that legislation concerning freedom of movement, the death penalty and the classification of people on the basis of religion should be amended in line with the provisions of the Covenant."

91. Mr. MÜLLERSON said that the members of the Committee had probably misinterpreted the Belarusian delegation's statements. They might have formed the impression that the Belarusian authorities were making distinctions between people on the basis of nationality, but in fact the delegation's statements simply recognized the existence of ethnic minorities, which existed in all the former Republics of the ex-Soviet Union. In the former Republics, there had been a distinction between citizenship and nationality, but in the case of Belarus in particular, legislation had now become extremely liberal and it would be erroneous to believe that that type of distinction had been maintained. The Committee should therefore correct that point in its comments.

92. Mrs. HIGGINS noted that the question of the interpretation of the concept of nationality had never been raised in the Committee's discussion; thus there was no reason for the question of interpretation to be referred to in the comments on the Belarus report.

93. Mr. SADI pointed out that the great majority of the members of the Committee had shown a particular interest in the question of freedom of movement. In that respect, the Chairman's suggestion appeared fully to reflect the concerns expressed.

94. The CHAIRMAN said it was his understanding that the Committee wished to delete the second sentence entirely and to insert the sentence proposed by Mrs. Higgins, which would be followed by the sentence proposed by Mr. Ando. He also noted that, in the French version, the word "Obstacles" used in the heading to section C should be replaced by the word "Facteurs", in keeping with the language of the Covenant itself. If there was no objection, he would take it that the Committee decided to adopt paragraph 7, as orally amended.

95. It was so decided.

96. The comments of the Committee on the third periodic report of Belarus (M/CCPR/92/35 in the French version, no symbol in the English version), as orally amended, were adopted.

Comments of the Human Rights Committee on the initial report of the Republic of Korea (M/CCPR/92/36 in the French version, no symbol in the English version)

97. Mr. HERNDL said that the words "political prisoners" in the penultimate line of paragraph 7 should be replaced by the words "prisoners of opinion". Furthermore, in the English version, the word "entwined" in the seventh line of paragraph 8 should be replaced by "enshrined".

98. The CHAIRMAN invited the Committee to adopt its comments paragraph by paragraph.

Paragraph 1

99. Paragraph 1 was adopted on the understanding that the formula proposed by Mrs. Higgins for the Committee's comments on all State party reports would be inserted.

Paragraph 2

100. Paragraph 2 was adopted.

Paragraph 3

101. Mr. MÜLLERSON noted that the expression "and its Optional Protocol" in the third line of paragraph 3 should be replaced by the phrase "and the Optional Protocol", since there were now two Protocols.

102. Mr. AGUILAR URBINA, referring to the second sentence of paragraph 3, said there was no real connection between the fact that the Republic of Korea had made the declaration provided for in article 41 of the Covenant and the fact that it had joined the International Labour Organisation. In his opinion, the first two sentences of the paragraph should be expressed in a more logical manner.

103. The CHAIRMAN suggested that the first two sentences should be reformulated to read: "The Committee notes ... and the Optional Protocol; it has made the declaration provided for in article 41 of the Covenant. It has also joined the International Labour Organisation."

104. Miss CHANET expressed some reservations about the last sentence of the paragraph. The expression "internal dissent has openly appeared and is permitted" seemed an overstatement, for while internal dissent did exist, it was apparently severely repressed. The words "has openly appeared and", should therefore be deleted. Furthermore, the independence of the Constitutional Court had been vigorously contested, in particular on the occasion of decisions concerning the application of article 7 of the National Security Law, and she therefore believed that the words "and independent" should also be deleted.

105. Mrs. HIGGINS said she did not share Miss Chanet's opinion on the Constitutional Court's lack of independence. The Court had on several occasions rendered judgements contrary to the Government's opinion, and although its decisions on the application of the National Security Law in particular had not always been to the liking of the Committee and certain non-governmental organizations, that in no way meant that it had failed to act independently.

106. Mr. WENNERGREN endorsed Miss Chanet's opinion. The Committee did not have enough reliable information to state that the Constitutional Court was playing an independent role, although there was no doubt that it did play a "vigorous" role.

107. Mr. HERNDL proposed that the last phrase should be reformulated to read: "Internal dissent is now accepted and the Constitutional Court, an independent body, is playing a vigorous and important role."

108. Mr. AGUILAR URBINA, while endorsing Mr. Herndl's proposal, said it would be better to say that the Constitutional Court "has begun" to play an important role, for that was apparently a recent development on which the Committee was not fully informed. The use of the word "accepted", moreover, appeared justified, for the members of the Committee, after closely examining the question of the application of the National Security Law in particular, had reached the conclusion that internal dissent was not exactly fully and openly permitted.

109. Mr. ANDO said he agreed with Mr. Herndl's proposal concerning the role of the Constitutional Court, but would like it to be clear that internal dissent was not simply permitted or accepted, for freedom of political opinion did exist in practice, as had been seen during the presidential elections, when three candidates from three different political movements had run for office.

110. Mr. PRADO VALLEJO said that the Committee should take care not to award the Government of the Republic of Korea a good-conduct medal too easily by stating categorically that internal dissent was accepted. Changes had certainly occurred and progress had been made, but when concluding their consideration of the report of the Republic of Korea, most members of the Committee had noted that the internal political situation remained extremely disturbing, precisely because of the continuing repression. He himself had noted, for example, that the State party's delegation had declined to give any information on the existence of political prisoners in the country. In his opinion, it would be preferable to delete any reference to internal dissent; the Committee could simply note that the Constitutional Court played an important role.

111. Mr. HERNDL said he believed that the fact that internal dissent existed and was no longer repressed as in the past was an important positive development.

112. Mrs. HIGGINS proposed that the sentence should be divided in two, for she did not see any particular connection between internal dissent and the role of the Constitutional Court.

113. Mr. NDIAYE said that the expression "internal dissent" was meaningless and that it would be preferable to speak of political dissent.

114. Miss CHANET said she felt it was essential to keep the concept of "internal" dissent, considering the fact that the current Government only allowed protest over certain aspects of its policy. For example, any opposition to the Government's foreign policy, in particular regarding North Korea, remained limited. On the other hand, it was true that some form of internal dissent was accepted.

115. Mr. HERNDL proposed to meet the concerns expressed by the members of the Committee as a whole by replacing the last sentence of paragraph 3 by the following two sentences: "Internal political dissent is now more accepted. The Constitutional Court, an independent body, plays a vigorous and important role."

116. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the wording proposed by Mr. Herndl.

117. It was so decided.

118. Paragraph 3, as orally amended, was adopted.

The meeting rose at 1 p.m.